

Message Text

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ACTION EB-11

INFO OCT-01 ARA-16 EUR-25 NEA-14 IO-14 ISO-00 SSO-00

NSCE-00 INRE-00 USIE-00 FRB-03 OMB-01 TAR-02 SP-03

SWF-02 AGR-20 AID-20 CIAE-00 COME-00 INR-11 LAB-06

NSAE-00 OIC-04 RSC-01 SIL-01 STR-08 TRSE-00 CIEP-03

CEA-02 DRC-01 L-03 DODE-00 PM-07 H-03 NSC-07 PA-04

PRS-01 SS-20 MMS-04 EA-11 OPIC-12 AF-10 ACDA-19 /270 W

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O R 061820Z SEP 74

FM USMISSION GENEVA

TO SECSTATE WASHDC IMMEDIATE 8099

INFO AMEMBASSY MEXICO

AMEMBASSY NEW DELHI

USUN NEW YORK 1006

USMISSION OECD PARIS

UNCLAS GENEVA 5643

DEPT PASS TREASURY FOR BRADFIELD

E.O. 11652: N/A

TAGS: UNCTAD, EGEN

SUBJ: UNCTAD TDB XIV: CHARTER OF ECONOMIC RIGHTS-DUTIES

1. THE REPORT OF THE DRAFTING GROUP ON THE BRILLANTES

TEXT FOLLOWS. BEGIN QUOTE:

(1) EVERY STATE HAS PERMANENT SOVEREIGNTY OVER ITS NATURAL WEALTH AND RESOURCES AND HAS THE INALIENABLE RIGHT FULLY AND FREELY TO DISPOSE OF THEM.

(2) EACH STATE HAS THE RIGHT: A) TO REGULATE (AND CONTROL) FOREIGN INVESTMENT WITHIN ITS NATIONAL JURISDICTION IN ACCORDANCE WITH ITS LAWS AND REGULATIONS AND IN CONFORMITY WITH ITS DEVELOPMENT OBJECTIVES AND PRIORITIES; B) (TO ENTER INTO INVESTMENT AGREEMENTS RELATING TO THE IMPORT OF FOREIGN CAPITAL, WHICH AGREEMENTS

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SHALL BE OBSERVED IN GOOD FAITH;)

C) TO REGULATE AND SUPERVISE THE ACTIVITIES OF TRANSNATIONAL CORPORATIONS WITHIN ITS NATIONAL JURISDICTION AND TAKE MEASURES TO ENSURE THAT SUCH ACTIVITIES COMPLY FULLY WITH ITS LAWS, RULES AND REGULATIONS AND CONFORM WITH ITS ECONOMIC AND SOCIAL POLICIES. TRANSNATIONAL CORPORATIONS SHALL NOT INTERVENE IN THE INTERNAL AFFAIRS OF A HOST STATE. EVERY STATE SHOULD, WITH FULL REGARD FOR ITS SOVEREIGN RIGHTS, CO-OPERATE WITH OTHER STATES IN THE EXERCISE OF THE RIGHT SET FORTH IN THIS SUB-PARAGRAPH. 1/

1/ FOOTNOTE: IN THE VIEW OF SOME DELEGATIONS, AGREEMENT ON POINT (C) IS CONTINGENT UPON AGREEMENT ON POINTS (B) AND (D) AND SUB-PARAGRAPH 3 IN TERMS SUBSTANTIALLY SATISFACTORY TO THOSE DELEGATIONS. (D) TO NATIONALIZE, EXPROPRIATE OR REQUISITION FOREIGN PROPERTY (PROVIDED THAT) (IN WHICH CASE)(JUST)(APPROPRIATE) COMPENSATION (SHALL)(SHOULD)BE PAID(BY THE STATE TAKING SUCH MEASURES)(IN THE LIGHT OF ALL RELEVANT CIRCUMSTANCES)(AFTER TAKING INTO ACCOUNT ALL RELEVANT CIRCUMSTANCES);

ALTERNATIVE 1

(E) TO REQUIRE THAT RECOURSE BE HAD TO ITS NATIONAL JURISDICTION IN ANY CASE WHERE THE TREATMENT OF FOREIGN INVESTMENT OR COMPENSATION THEREFOR IS IN CONTROVERSY, UNLESS OTHERWISE AGREED BY THE PARTIES;

(F) TO SETTLE DISPUTES WHERE SO AGREED BY THE PARTIES CONCERNED THROUGH NEGOTIATION, GOOD OFFICES, INQUIRY, FACT-FINDING CONCILIATION, MEDIATION, ARBITRATION OR JUDICIAL SETTLEMENT ON THE BASIS OF THE PRINCIPLES OF SOVEREIGN EQUALITY OF STATES AND FREE CHOICE OF MEANS.

ALTERNATIVE 2

(E) IN CASES WHERE NO SOLUTION ON THE QUESTION OF COMPENSATION HAS BEEN ARRIVED AT, RECOURSE WILL BE HAD TO THE NATIONAL JURISDICTION OF THE NATIONALIZING STATE, UNLESS THERE IS AGREEMENT(BETWEEN (THE STATES)(THE PARTIES) CONCERNED) TO SEEK A SETTLEMENT THROUGH OTHER PEACEFUL MEANS ON THE BASIS OF THE SOVEREIGN EQUALITY OF STATES AND IN ACCORDANCE WITH THE PRINCIPLE OF FREE CHOICE OF MEANS.

(3) 1/ FOOTNOTE ALTERNATIVE 1

IN RESPECT OF THE FOREGOING RIGHTS, ALL STATES SHALL, AS SPECIFIED IN CHAPTER I OF THIS CHARTER, ACT IN "FULFILLMENT IN GOOD FAITH OF INTERNATIONAL OBLIGATIONS" AND SHALL EQUALLY OBSERVE THE OTHER PRINCIPLES SET FORTH IN THAT CHAPTER.

ALTERNATIVE 2-IN RESPECT OF THE FOREGOING RIGHTS, ALL STATES
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CONCERNED SHALL OBSERVE THE PRINCIPLES SET FORTH IN CHAPTER I OF THIS CHARTER.

ALTERNATIVE 3-IN RESPECT OF THE FOREGOING RIGHTS, EVERY STATE HAS THE DUTY TO FULFILL IN GOOD FAITH ITS OBLIGATIONS UNDER THE GENERALLY RECOGNIZED PRINCIPLES AND RULES OF INTERNATIONAL LAW.

1/ FOOTNOTE: THE FIRST THREE ALTERNATIVES WERE ALL OBJECTED TO BY ONE REPRESENTATIVE OR ANOTHER. THE FOURTH WAS NOT REJECTED BY ANY DELEGATION, ALTHOUGH EQUALLY NO ONE WAS IN A POSITION, AT THAT

STATE, TO ACCEPT IT.

(3) ALTERNATIVE 4

IN RESPECT OF THE FOREGOING RIGHTS, ALL STATES SHALL FULLFILL IN GOOD FAITH THEIR INTERNATIONAL OBLIGATIONS, SHALL REFRAIN FROM ANY FORM OF COERCION AND SHALL OBSERVE THE PRINCIPLES SET FORTH IN CHAPTER I OF THIS CHARTER.

ADDITIONAL SUB-PARAGRAPHS PROPOSED BY THE GROUP OF 77 AND NOT ACCEPTED BY GROUP B

EVERY STATE HAS THE RIGHT AND DUTY TO TAKE ALL EFFECTIVE MEASURES, INTER ALIA, THROUGH THE FULL EXERCISE OF PERMENENT SOVEREIGNTY OVER ALL

INTS NATURAL RESOURCES, TO PUT AN END TO ALL FORMS OF FOREIGN OCCUPATION, APARTHEID, RACIL DISCRIMINATION, COLONIAL, NEO-COLONIAL AND ALIEN DOMINATION AND EXPLOITATION.

NO STATE WHOSE NATIONS INVEST IN A FOREIGN COUNTRY SHALL DEMAND PRIVILEGED TREATMENT FOR SUCH INVESTORS. END QUOTE

2. THE REPORT EXPRESSLY NOTED THAT: IT IS UNDERSTOOD THAT AGREEMENT TO ANY PROVISION OF THIS PARAGRAPH IS CONTINGENT UPON AGREEMENT UPON ALL PROVISIONS OF THIS PARAGRAPH. DALE

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